

AMENDED IN ASSEMBLY MARCH 16, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 162

Introduced by Assembly Member Ruskin

January 27, 2009

An act to amend Sections 398.2, 398.4, and 398.5 of the Public Utilities Code, relating to electrical suppliers.

LEGISLATIVE COUNSEL'S DIGEST

AB 162, as amended, Ruskin. ~~Electric service providers: reporting requirements.~~ *Disclosure of sources of electrical generation.*

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations.

Existing law establishes a program under which ~~entities offering electric services in California~~ *retail suppliers of electricity* disclose accurate, reliable, and simple to understand information on the sources of energy that are used to provide electric services.

This bill would define the term “unspecified sources of power” for purposes of the above-described disclosure requirements to mean electricity generated that ~~cannot be matched to a particular generating facility.~~ *is not traceable to specific generation sources by any auditable contract trail or equivalent that provides commercial verification that the electricity source claimed has been sold once, and only once, to a retail consumer.* The bill would additionally define the term “retail supplier.” Further, this bill would change reporting requirements from quarterly to annually and amend other details regarding disclosures and eliminate certain reporting requirements.

(2) *Under existing law, the governing board of a local publicly owned electric utility, as defined, is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement. Existing law requires the governing board of a local publicly owned electric utility to report certain information relative to renewable energy resources to its customers.*

This bill would provide that compliance by a local publicly owned electric utility with the program under which retail suppliers of electricity disclose accurate, reliable, and simple to understand information on the sources of energy that are used to provide electric service, is compliance with the renewables portfolio standard reporting requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 398.2 of the Public Utilities Code is
- 2 amended to read:
- 3 398.2. The definitions set forth in this section shall govern the
- 4 construction of this article.
- 5 (a) *“Retail supplier” means an entity that offers an electricity*
- 6 *product for sale to retail consumers in California.*
- 7 ~~(a)~~
- 8 (b) *“System operator” means the Independent System Operator*
- 9 *with responsibility for the efficient use and reliable operation of*
- 10 *the transmission grid, as provided by Section 345, or a local*
- 11 *publicly owned electric utility that does not utilize the Independent*
- 12 *System Operator.*
- 13 ~~(b)~~
- 14 (c) *“Specific purchases” means electricity transactions which*
- 15 *are traceable to specific generation sources by any auditable*
- 16 *contract trail or equivalent, such as a tradable commodity system,*
- 17 *that provides commercial verification that the electricity source*
- 18 *claimed has been sold once and only once to a retail consumer.*
- 19 *Retail suppliers may rely on annual data to meet this requirement,*
- 20 *rather than hour-by-hour matching of loads and resources.*

1 (e) ~~“Net system power” means the mix of electricity fuel source~~
2 ~~types established by the Energy Commission representing the~~
3 ~~sources of electricity consumed in California that are not disclosed~~
4 ~~as specific purchases pursuant to Section 398.4.~~

5 (d) ~~“Unspecified sources of electricity” power~~ means electricity
6 ~~that cannot be matched to a particular generating facility. is not~~
7 ~~traceable to specific generation sources by any auditable contract~~
8 ~~trail or equivalent, including a tradable commodity system, that~~
9 ~~provides commercial verification that the electricity source claimed~~
10 ~~has been sold once, and only once, to a retail consumer.~~

11 SEC. 2. Section 398.4 of the Public Utilities Code is amended
12 to read:

13 398.4. (a) Every retail seller, ~~as defined in Section 399.12,~~
14 ~~supplier~~ that makes an offering to sell electricity that is consumed
15 in California shall disclose its electricity sources for the previous
16 calendar year. ~~A retail supplier that does not make any claims that~~
17 ~~identify its electricity sources as different than net system power~~
18 ~~may disclose net system power. Every retail supplier that makes~~
19 ~~an offering to sell electricity that is consumed in California and~~
20 ~~makes any claims that identify any of its electricity sources as~~
21 ~~different than net system power shall disclose these sources as~~
22 ~~specific purchases.~~

23 (b) The disclosures required by this section shall be made to
24 potential end-use consumers in all product-specific written
25 promotional materials that are distributed to consumers by either
26 printed or electronic means, except that advertisements and notices
27 in general circulation media shall not be subject to this requirement.

28 (c) The disclosures required by this section shall be made
29 annually to end-use consumers of the offered electricity. The annual
30 disclosure shall be made by the end of the first complete billing
31 cycle for the third quarter of the year, and shall be consistent with
32 information provided to the Energy Commission pursuant to
33 Section 398.5.

34 (d) The disclosures required by this section shall be made
35 separately for each offering made by the retail supplier.

36 (e) On or before January 1, 1998, the Energy Commission shall
37 specify guidelines for the format and means for disclosure required
38 by Section 398.3 and this section, based on the requirements of
39 this article and subject to public hearing.

(f) The costs of making the disclosures required by this section shall be considered to be generation related.

(g) The disclosures required by this section shall comply with the following:

(1) A retail seller's *supplier's* disclosure of its electricity sources shall be expressed as a percentage of annual sales derived from each of the following categories, ~~unless no specific purchases are disclosed, in which only the first category shall be disclosed.~~

~~(A) Net system electricity or unspecified categories:~~

(A) *Unspecified* sources of electricity.

(B) Specific purchases.

(2) A retail seller's *supplier's* disclosure of its electricity sources shall also separately identify total California system electricity, which is the sum of all in-state generation and net electricity imports by fuel type.

(h) Each of the categories specified in subdivision (g) shall be additionally identified as a percentage of annual sales that is derived from each fuel type of the categories specified as follows:

(1) Coal.

(2) Large hydroelectric (greater than 30 megawatts).

(3) Natural gas.

(4) Nuclear.

(5) Other categories as determined by the Energy Commission.

(6) Eligible renewable energy ~~resource technologies as defined in Section 399.12.~~ *resources pursuant to the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11)).*

(i) All electricity sources disclosed as specific purchases shall meet the requirements of subdivision (b) of Section 398.2.

(j) Specific purchases identified pursuant to this section shall be from sources connected to the Western Electricity Coordinating Council interconnected grid.

~~(k) Unspecified sources of electricity and total California system electricity shall be disclosed for the most recent calendar year available.~~

~~(l) Compliance~~

(k) *Compliance* with this section by a local publicly owned electric utility shall constitute compliance with paragraph (2) of subdivision (b) of Section 387.

~~(m)~~

1 (l) The provisions of this section shall not apply to generators
2 providing electric service onsite, under an over-the-fence
3 transaction as described in Section 218, or to an affiliate or
4 affiliates, as defined in subdivision (a) of Section 372.

5 SEC. 3. Section 398.5 of the Public Utilities Code is amended
6 to read:

7 398.5. (a) ~~Retail sellers, as defined in Section 399.12,~~ *suppliers*
8 that disclose specific purchases pursuant to Section 398.4 shall
9 report on June 1, 2009, and annually thereafter, to the Energy
10 Commission, for each electricity offering, for the previous calendar
11 year each of the following:

12 (1) The kilowatthours purchased, by generator and fuel type
13 during the previous calendar year, consistent with the meter data,
14 including losses, reported to the system operator.

15 (2) For each electricity offering the kilowatthours sold at retail.

16 (3) For each electricity offering the disclosures made to
17 consumers pursuant to Section 398.4.

18 (b) Information submitted to the Energy Commission pursuant
19 to this section that is a trade secret as defined in subdivision (d)
20 of Section 3426.1 of the Civil Code shall not be released except
21 in an aggregated form such that trade secrets cannot be discerned.

22 (c) On or before January 1, 1998, the Energy Commission shall
23 specify guidelines and standard formats, based on the requirements
24 of this article and subject to public hearing, for the submittal of
25 information pursuant to this article.

26 (d) In developing the rules and procedures specified in this
27 section, the Energy Commission shall seek to minimize the
28 reporting burden and cost of reporting that it imposes on retail
29 ~~sellers~~ *suppliers*.

30 ~~(e) The Energy Commission shall issue an annual report by July~~
31 ~~31 of each year calculating net system electricity. The Energy~~
32 ~~Commission will establish the generation mix for net generation~~
33 ~~imports delivered at interface points and metered by the system~~
34 ~~operators.~~

35 (f)

36 (e) The provisions of this section shall not apply to generators
37 providing electric service onsite, under an over-the-fence
38 transaction as described in Section 218, or to an affiliate or
39 affiliates, as defined in subdivision (a) of Section 372.

40 (g)

- 1 (f) The Energy Commission may verify the veracity of
2 environmental claims made by retail-~~sellers~~ *suppliers*.